

Senate Study Bill 1121

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL
BY CHAIRPERSON ZIEMAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to elections and voter registration by providing
2 for nonpartisan election of township offices, allowing
3 nomination petitions to be signed on both sides of paper,
4 removing the requirement that judges' names be rotated on
5 certain ballots, removing certain authority to sign voter
6 registration forms on behalf of the registrant, relating to
7 use of substitute precinct election officials, relating to use
8 of voting machine or paper ballots at certain elections,
9 modifying opening hours and closing hours of the polls at
10 certain elections, providing for destruction of certain
11 ballots, relating to the abstract of votes for county offices,
12 providing for use of certain voting machines at satellite
13 absentee voting stations, relating to observers present when
14 ballots are counted, allowing absentee voting at the
15 commissioner's office for certain elections, and relating to
16 persons nominated for city office by write-in votes.
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
18 TLSB 2586XC 80
19 sc/sh/8

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1 1 Section 1. Section 39.21, Code 2003, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 4. Township trustees and township clerks
1 4 as provided in section 39.22, subsection 2.
1 5 Sec. 2. Section 43.14, subsection 1, unnumbered paragraph
1 6 1, Code 2003, is amended to read as follows:
1 7 Nomination papers shall include a petition and an affidavit
1 8 of candidacy. All nomination petitions shall be eight and
1 9 one-half by eleven inches in size and in substantially the
1 10 form prescribed by the state commissioner of elections. The
1 11 petition may contain signatures on the front and back of a
1 12 sheet of paper. Each side shall be considered a separate page
1 13 of the petition for purposes of this section. They Petitions
1 14 shall include or provide spaces for the following information:
1 15 Sec. 3. Section 45.5, subsection 1, unnumbered paragraph
1 16 1, Code 2003, is amended to read as follows:
1 17 Nomination papers shall include a petition and an affidavit
1 18 of candidacy. All nomination petitions shall be eight and
1 19 one-half by eleven inches in size and shall be in
1 20 substantially the form prescribed by the state commissioner of
1 21 elections. The petition may contain signatures on the front
1 22 and back of a sheet of paper. Each side shall be considered a
1 23 separate page of the petition for purposes of this section.
1 24 ~~They~~ Petitions shall provide spaces for the following
1 25 information:
1 26 Sec. 4. Section 46.21, unnumbered paragraph 1, Code 2003,
1 27 is amended to read as follows:
1 28 At least sixty-nine days before each judicial election, the
1 29 state commissioner of elections shall certify to the county
1 30 commissioner of elections of each county a list of the judges
1 31 of the supreme court, court of appeals, and district court
1 32 including district associate judges, full-time associate
1 33 juvenile judges, and full-time associate probate judges, and
1 34 clerks of the district court to be voted on in each county at
1 35 that election. The county commissioner of elections shall
2 1 place the names upon the ballot in the order in which they
2 2 appear in the certificate, ~~unless only one county is voting~~
2 3 ~~thereon.~~ The state commissioner of elections shall rotate the
2 4 names in the certificate by county, ~~or the county commissioner~~
2 5 ~~of elections shall rotate them upon the ballot by precinct if~~
2 6 ~~only one county is voting thereon.~~ The names of all judges
2 7 and clerks to be voted on shall be placed upon one ballot,
2 8 which shall be in substantially the following form:

2 9 Sec. 5. Section 48A.11, subsection 6, Code 2003, is
2 10 amended to read as follows:
2 11 6. A person who has been designated to have power of
2 12 attorney by a registrant does not have authority to sign a
2 13 voter registration form, ~~except as otherwise provided in~~
2 14 ~~section 39.3, subsection 17 on behalf of the registrant.~~
2 15 Sec. 6. Section 49.14, subsection 1, Code 2003, is amended
2 16 to read as follows:
2 17 1. The commissioner may appoint substitute precinct
2 18 election officials as alternates for election board members.
2 19 ~~A majority of the original election board members shall be~~
2 20 ~~present at the precinct polling place at all times; However,~~
2 21 ~~at partisan elections such the majority of election board~~
2 22 ~~members at the precinct polling place shall include at least~~
2 23 ~~one precinct election official from each political party. If~~
2 24 ~~the chairperson leaves the polling place, the chairperson~~
2 25 ~~shall designate another member of the board to serve as~~
2 26 ~~chairperson until the chairperson returns. The~~
2 27 ~~responsibilities and duties of a precinct election official,~~
2 28 ~~other than the chairperson, present at the time the polling~~
2 29 ~~place was opened on the day of an election may be assumed at~~
2 30 ~~any later time that day by a substitute appointed as an~~
2 31 ~~alternate. The substitute shall serve either for the balance~~
2 32 ~~of that election day or for any shorter period of time the~~
2 33 ~~commissioner may designate.~~
2 34 Sec. 7. Section 49.26, subsection 2, Code 2003, is amended
2 35 to read as follows:
3 1 2. When voting machines are available for an election
3 2 precinct, the commissioner shall determine in advance of each
3 3 election conducted for a city of three thousand five hundred
3 4 or less population or any school district in which voting
3 5 occurs in that precinct whether voting there shall be by
3 6 machine or paper ballot. ~~If the commissioner concludes, on~~
3 7 ~~the basis of voter turnout for recent similar elections and~~
3 8 ~~factors considered likely to affect voter turnout for the~~
3 9 ~~forthcoming election, that voting will probably be so light as~~
3 10 ~~to make preparation and use of paper ballots less expensive~~
3 11 ~~than preparation and use of a voting machine, paper ballots~~
3 12 ~~shall be used.~~
3 13 Sec. 8. Section 49.30, subsection 1, Code 2003, is amended
3 14 to read as follows:
3 15 1. Where special paper ballots are used, if it is not
3 16 possible to include all offices and public measures on a
3 17 single ballot, separate ballots may be provided for ~~township~~
3 18 ~~offices, nonpartisan offices, judges, or public measures.~~
3 19 Sec. 9. Section 49.30, subsection 2, paragraph a, Code
3 20 2003, is amended to read as follows:
3 21 a. If it is impossible to place the names of all
3 22 candidates on the machine ballot, the commissioner may provide
3 23 a separate paper ballot for the candidates for judge of the
3 24 district court, ~~the township offices,~~ and the nonpartisan
3 25 offices listed in section 39.21. One of the paper ballots
3 26 shall be furnished to each registered voter.
3 27 Sec. 10. Section 49.37, subsection 3, Code 2003, is
3 28 amended to read as follows:
3 29 3. The commissioner shall arrange the partisan county
3 30 offices on the ballot with the board of supervisors first,
3 31 followed by the other county offices ~~and township offices~~ in
3 32 the same sequence in which they appear in ~~sections~~ section
3 33 ~~39.17 and 39.22.~~ Nonpartisan offices shall be listed after
3 34 partisan offices.
3 35 Sec. 11. Section 49.73, subsection 1, paragraph e, Code
4 1 2003, is amended to read as follows:
4 2 e. ~~The Any election conducted for the unincorporated area~~
4 3 ~~of any a county voting on a local option sales and services~~
4 4 ~~tax pursuant to section 422B.1.~~
4 5 Sec. 12. Section 49.73, subsection 2, Code 2003, is
4 6 amended to read as follows:
4 7 2. The commissioner shall not shorten voting hours for any
4 8 election if there is filed in the commissioner's office, at
4 9 least twenty-five days before the election, a petition signed
4 10 by at least fifty eligible electors of the school district or
4 11 city, as the case may be, requesting that the polls be opened
4 12 not later than seven o'clock a.m. All polling places where
4 13 the candidates of or any public question submitted by any one
4 14 political subdivision are being voted upon shall be opened at
4 15 the same hour, except that this requirement shall not apply to
4 16 merged areas established under chapter 260C. The hours at
4 17 which the respective precinct polling places are to open shall
4 18 not be changed after publication of the notice required by
4 19 section 49.53. The polling places shall be closed at ~~nine~~

~~4 20 o'clock eight p.m. for state primary and general elections and~~
~~4 21 other partisan elections, and for any other election held~~
~~4 22 concurrently therewith, and at eight o'clock p.m. for all~~
~~4 23 other elections.~~
4 24 Sec. 13. Section 50.9, Code 2003, is amended to read as
4 25 follows:
4 26 50.9 RETURN OF BALLOTS NOT VOTED.
4 27 Ballots not voted, or spoiled by voters while attempting to
4 28 vote, shall be returned by the precinct election officials to
4 29 the commissioner, and a receipt taken for the ballots. The
4 30 ballots shall be preserved for twenty-two months following
4 31 elections for federal offices ~~and for six months following~~
~~4 32 elections for all other offices. For all other elections,~~
~~4 33 ballots not voted, or spoiled by voters while attempting to~~
~~4 34 vote, may be destroyed the day after the last day to contest~~
~~4 35 the election, or the day after final determination of any~~
5 1 pending contest.
5 2 Sec. 14. Section 50.25, subsection 7, Code 2003, is
5 3 amended by striking the subsection and inserting in lieu
5 4 thereof the following:
5 5 7. County offices.
5 6 Sec. 15. Section 52.7, Code 2003, is amended to read as
5 7 follows:
5 8 52.7 CONSTRUCTION OF MACHINE APPROVED.
5 9 1. A voting machine approved by the state board of
5 10 examiners for voting machines and electronic voting systems
5 11 must be so constructed as to provide facilities for voting for
5 12 the candidates of at least seven different parties or
5 13 organizations, must permit a voter to vote for any person for
5 14 any office although not nominated as a candidate by any party
5 15 or organization, and must permit voting in absolute secrecy.
5 16 2. It must also be so constructed as to prevent voting for
5 17 more than one person for the same office, except where the
5 18 voter is lawfully entitled to vote for more than one person
5 19 for that office; and it must afford the voter an opportunity
5 20 to vote for any or all persons for that office as the voter is
5 21 by law entitled to vote for and no more, at the same time
5 22 preventing the voter from voting for the same person twice.
5 23 3. It may also be provided with one ballot in each party
5 24 column or row containing only the words "presidential
5 25 electors", preceded by the party name, and a vote for such
5 26 ballot shall operate as a vote for all the candidates of such
5 27 party for presidential electors.
5 28 4. Such machine shall be so constructed as to accurately
5 29 account for every vote cast upon it.
5 30 5. A voting machine may be used at satellite voting
~~5 31 stations or at the commissioner's office for voting of~~
~~5 32 absentee ballots if the following apply:~~
5 33 a. The voting machine is a direct recording electronic
5 34 voting system.
5 35 b. The voting machine is equipped with the ability to
6 1 retrieve a ballot after the ballot has been voted.
6 2 c. The voting machine is so constructed to remove
6 3 identifying information from the ballot before the ballot is
6 4 tabulated.
6 5 Sec. 16. Section 52.36, Code 2003, is amended to read as
6 6 follows:
6 7 52.36 COMMISSIONER IN CHARGE OF COUNTING CENTER ==
6 8 APPOINTMENT OF RESOLUTION BOARD.
6 9 All proceedings at the counting center shall be under the
6 10 direction of the commissioner and open to the public. The
6 11 proceedings ~~shall~~ may be under the observation of at least one
6 12 member of each of the political parties referred to in section
6 13 49.13, ~~if members are designated by the county chairperson or,~~
~~6 14 if the chairperson fails to make a designation, by the~~
~~6 15 commissioner.~~ No person except those employed and authorized
6 16 by the commissioner for the purpose shall touch any ballot or
6 17 ballot container.
6 18 The commissioner shall appoint from the lists provided by
6 19 the county political party chairpersons a resolution board to
6 20 tabulate write-in votes and to decide questions regarding
6 21 damaged, defective, or other ballots which cannot be tabulated
6 22 by machine. The commissioner shall appoint as many people to
6 23 the resolution board as the commissioner believes are
6 24 necessary. The resolution board shall be divided into two=
6 25 person teams. Each team shall consist of people who are not
6 26 members of the same political party. If a team is unable to
6 27 decide how to count one or more ballots, a third person shall
6 28 be available to consult with the team and to resolve disputes.
6 29 Ballots which were objected to shall be endorsed and separated
6 30 as required by section 50.4.

6 31 Sec. 17. Section 53.2, unnumbered paragraph 1, Code 2003,
6 32 is amended to read as follows:

6 33 Any registered voter, under the circumstances specified in
6 34 section 53.1, may on any day, except election day, and not
6 35 more than seventy days prior to the date of the election,
7 1 apply in person for an absentee ballot at the commissioner's
7 2 office or at any location designated by the commissioner, or
7 3 make written application to the commissioner for an absentee
7 4 ballot. However, for those elections in which the
7 5 commissioner directs the polls be opened at noon pursuant to
7 6 section 49.73, a voter may apply in person for an absentee
7 7 ballot at the commissioner's office from eight a.m. until
7 8 eleven a.m. on election day. The state commissioner shall
7 9 prescribe a form for absentee ballot applications. However,
7 10 if a registered voter submits an application that includes all
7 11 of the information required in this section, the prescribed
7 12 form is not required. Absentee ballot applications may
7 13 include instructions to send the application directly to the
7 14 county commissioner of elections. However, no absentee ballot
7 15 application shall be preaddressed or printed with instructions
7 16 to send the applications to anyone other than the appropriate
7 17 commissioner.

7 18 Sec. 18. Section 376.11, unnumbered paragraphs 1, 3, 4,
7 19 and 5, Code 2003, are amended to read as follows:

7 20 Write-in votes are permitted to be cast in all elections
7 21 for city offices. A person who receives a sufficient number
7 22 of write-in votes to be elected to a city office shall be
7 23 declared the winner of the election. If a person who was
7 24 elected by write-in votes chooses not to serve in that office
7 25 the person shall submit a resignation in writing to the city
7 26 clerk not later than five ~~o'clock~~ p.m. on the tenth day
7 27 following the canvass of the election. If a person who was
7 28 elected by write-in votes resigns at a later time, the office
7 29 shall be considered vacant at the end of the term and the
7 30 council shall fill the vacancy pursuant to the provisions of
7 31 section 372.13, subsection 2.

7 32 In city primary elections any person who receives write-in
7 33 votes shall execute an affidavit in substantially the form
7 34 required by section 45.3, and file it with the county
7 35 commissioner of elections or the city clerk not later than
8 1 five ~~o'clock~~ p.m. on the fourth day after following the
8 2 canvass of the primary election. If any person who received
8 3 write-in votes fails to file the affidavit at the time
8 4 required, the county commissioner shall disregard the write-in
8 5 votes cast for that person. A notation shall be made on the
8 6 abstract of votes showing which persons who received write-in
8 7 votes filed affidavits. The total number of votes cast for
8 8 each office on the ballot shall be amended by subtracting the
8 9 write-in votes of those candidates who failed to file the
8 10 affidavit. It is not necessary for a candidate whose name was
8 11 printed upon the ballot to file an affidavit. Of the
8 12 remaining candidates, those who receive the highest number of
8 13 votes to the extent of twice the number of unfilled positions
8 14 shall be placed on the ballot for the regular city election as
8 15 candidates for that office.

8 16 In cities in which the city council has chosen a runoff
8 17 election in lieu of a primary, if a person who was elected by
8 18 write-in votes chooses not to accept the office by filing a
8 19 resignation notice with the city clerk or commissioner of
8 20 elections not later than five ~~o'clock~~ p.m. on the fourth day
8 21 following the canvass, all remaining persons who received
8 22 write-in votes and who wish to be considered candidates for
8 23 the runoff election shall execute an affidavit in
8 24 substantially the form required by section 45.3 and file it
8 25 with the county commissioner or the city clerk not later than
8 26 five ~~o'clock~~ p.m. of the fourth day following the canvass. If
8 27 a person receiving write-in votes fails to file the affidavit
8 28 at the time required, the county commissioner of elections
8 29 shall disregard the write-in votes cast for that person. The
8 30 abstract of votes shall be amended to show that the person who
8 31 was declared elected declined the office and a notation shall
8 32 be made next to the names of those persons who did not file
8 33 the affidavit. A runoff election shall be held with the
8 34 remaining candidates who have the highest number of votes to
8 35 the extent of twice the number of unfilled positions.

9 1 In a city in which the council has chosen a runoff
9 2 election, if no person was declared elected for an office all
9 3 persons who received write-in votes shall execute an affidavit
9 4 in substantially the form required by section 45.3 and file it
9 5 with the county commissioner of elections or the city clerk
9 6 not later than five ~~o'clock~~ p.m. on the fourth day following

9 7 the canvass of votes. If any person who received write-in
9 8 votes fails to file the affidavit the county commissioner of
9 9 elections shall disregard the write-in votes cast for that
9 10 person. The abstract of votes shall be amended to note which
9 11 of the write-in candidates failed to file the affidavit. A
9 12 runoff election shall be held with the remaining candidates
9 13 who have the highest number of votes to the extent of twice
9 14 the number of unfilled positions.

9 15 EXPLANATION

9 16 This bill makes changes to the law relating to elections
9 17 and voter registration.

9 18 Code section 39.21 is amended to provide that election of
9 19 township trustees and township clerks shall be on a
9 20 nonpartisan basis. Code sections 49.30 and 49.37, relating to
9 21 separate paper ballots and arrangement of offices on the
9 22 ballot, are amended to conform to this change.

9 23 Code sections 43.14 and 45.5, relating to form of
9 24 nomination papers, are amended to provide that a nomination
9 25 petition may contain signatures on the front and back of a
9 26 sheet of paper. For purposes of the requirements of those
9 27 sections, each side of the sheet shall be considered a
9 28 separate page of the petition.

9 29 Code section 46.21 is amended to remove the requirement
9 30 that the names of judges standing for retention be rotated on
9 31 the ballot if only one county is voting on retention of the
9 32 judges named.

9 33 Code section 48A.11 is amended to provide that a person who
9 34 has been designated power of attorney by a voter registrant
9 35 does not have authority to sign a voter registration form on
10 1 behalf of the registrant.

10 2 Code section 49.14 is amended to remove the requirement
10 3 that a majority of the members of the original precinct
10 4 election board be present at the precinct polling place at all
10 5 times during election day. The section is also amended to
10 6 require that the chairperson of the precinct election board be
10 7 present at the precinct polling place at all times during
10 8 election day.

10 9 Code section 49.26 is amended to remove the factors that a
10 10 county commissioner of elections is to consider when
10 11 determining whether, in an election for a city of 3,500 or
10 12 less population or in a school district election, voting shall
10 13 be by voting machine or paper ballot.

10 14 Code section 49.73 is amended to provide that the polls may
10 15 open at noon, rather than 7 a.m. for any election conducted in
10 16 the unincorporated area of a county. Currently, the polls may
10 17 open at noon for an election in the unincorporated area of the
10 18 county only if it is an election on a local option sales and
10 19 services tax. Code section 49.73 is also amended to change
10 20 the time for closing precinct polling places from 9 p.m. to 8
10 21 p.m. for all elections.

10 22 Code section 50.9 is amended to provide that for all
10 23 elections, other than elections for federal offices, ballots
10 24 not voted or spoiled by voters and returned to the county
10 25 commissioner may be destroyed the day after the last day to
10 26 contest the election, or the day after final determination of
10 27 any pending contest related to the election. Currently, such
10 28 ballots are required to be preserved for six months.

10 29 Code section 50.25 is amended to provide that the abstract
10 30 of votes in the general election may be made on one sheet for
10 31 county offices, rather than a separate sheet for each county
10 32 officer.

10 33 Code section 52.7 is amended to provide that a voting
10 34 machine may be used at satellite absentee voting stations or
10 35 at the county commissioner's office for voting absentee
11 1 ballots if the voting machine is a direct recording electronic
11 2 voting system that is equipped with the ability to retrieve a
11 3 ballot after the ballot has been voted and is constructed to
11 4 remove identifying information from a ballot before the ballot
11 5 is counted.

11 6 Code section 52.36 is amended to provide that an observer
11 7 from each of the political parties may be present when ballots
11 8 are counted if the county chairperson of the party has
11 9 designated an observer. Currently, the observers from each
11 10 party are required to be present and if the county chairperson
11 11 does not designate someone to observe, the county commissioner
11 12 must make the designation.

11 13 Code section 53.2 is amended to allow a voter to apply in
11 14 person at the commissioner's office for an absentee ballot
11 15 from 8 a.m. until 11 a.m. on the day of the election if it is
11 16 an election at which the commissioner has directed that the
11 17 polls shall open at noon. The county commissioner of

11 18 elections may, by law, direct that the polls be opened at noon
11 19 for any school district election, city elections in cities of
11 20 3,500 or less population, for cities above 3,500 population if
11 21 there is no contested election or public measure on the
11 22 ballot, any benefited district, and elections on local option
11 23 sales and services tax in the unincorporated area of the
11 24 county.
11 25 Code section 376.11, relating to write-in votes for city
11 26 offices, is amended to provide that if a person elected by
11 27 write-in votes at a regular city election chooses not to
11 28 serve, the person shall submit the person's resignation to the
11 29 city clerk by 5 p.m. on the tenth day following the canvass of
11 30 that election. Currently, the resignation is required by 5
11 31 p.m. on the day following the canvass of the election.
11 32 Provisions in Code section 376.11 relating to persons
11 33 nominated at city primary and city run-off elections are
11 34 amended to be consistent throughout by providing that a person
11 35 receiving write-in votes at those elections must file an
12 1 affidavit of candidacy or a resignation notice with the city
12 2 clerk or commissioner of elections by 5 p.m. on the fourth day
12 3 following the canvass of the election.
12 4 LSB 2586XC 80
12 5 sc/sh/8